

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RASCHID ZIMMERMAN,

Petitioner,

Case No. 03-60173

Hon. Marianne O. Battani

v.

Magistrate Judge Paul J. Komives

BARRY D. DAVIS,

Respondent.

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ORDER ADOPTING REPORT AND RECOMMENDATION

In August 2003, Petitioner Raschid Zimmerman filed an application for writ of habeas corpus. The Court subsequently stayed the matter at Petitioner's request so that he could pursue additional state remedies. Thereafter, Zimmerman filed an amended petition, alleging ineffective assistance of trial and appellate counsel. He also requested an evidentiary hearing.

The Court referred this matter to Magistrate Judge Paul J. Komives pursuant to 28 U.S.C. § 636(b)(1) for a report and recommendation ("R&R"). On November 12, 2009, he issued his R&R. The Magistrate Judge made two recommendations: first, that the Court reject Respondent's argument that the claims advanced are barred by a state court procedural default; and second, that the Court grant Petitioner's motion for an evidentiary hearing. The Magistrate Judge informed the parties that objections to the R&R must be filed within ten days of service and that a party's failure to file objections would waive any further right of appeal. See R&R at 18; 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2).

Because no objection has been filed in this case, the parties waived their right to review and appeal. Accordingly, the Court **ADOPTS** the Report and Recommendation and refers this matter for an evidentiary hearing pursuant to 28 U.S.C. § 636(b)(1)(B).

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATED: January 7, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served upon counsel of record on this date by ordinary mail and/or electronic filing.

s/Bernadette M. Thebolt
Case Manager